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12-20-1995

# Limitations On Public Display Of Marine Mammals.

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**DIVISIONS:**

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Political Reform  
Uniform Commercial Code



**BILL JONES**

Secretary of State  
State of California

May 30, 1996

**#688**

**ELECTIONS DIVISION**

(916) 657-2166  
1500 - 11th STREET  
SACRAMENTO, CA 95814  
Voter Registration Hotline  
1-800-345-VOTE  
For Hearing and Speech Impaired Only  
1-800-833-8683  
e-mail: comments@ss.ca.gov

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND  
PROPONENT (96182)

FROM: Cathy Mitchell

CATHY MITCHELL  
Initiative Coordinator

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE STATUTE filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: LIMITATIONS ON PUBLIC DISPLAY OF MARINE  
MAMMALS. INITIATIVE STATUTE.

SUMMARY DATE: December 20, 1995

PROPONENT: Richard Katz

2

3

4



Bill Jones  
Secretary of State

1500 - 11th Street  
Sacramento, CA 95814

Elections Division  
(916) 657-2166  
For Hearing and Speech  
Impaired Only: (800) 833-8683

#688

December 20, 1995

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (95194)

LIMITATIONS ON PUBLIC DISPLAY  
OF MARINE MAMMALS.  
INITIATIVE STATUTE.

Pursuant to Section 336 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

Circulating and Filing Schedule

1. Minimum number of signatures required . . . . . 433,269  
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date . . . . . Wednesday, 12/20/95  
Elec. C., Sec. 336.
3. Petition Sections:
  - a. First day Proponents can circulate Sections for  
signatures . . . . . Wednesday, 12/20/95  
Elec. C., Sec. 336.
  - b. Last day Proponents can circulate and file with  
the county. All sections are to be filed at  
the same time within each county . . . . . Friday, 05/17/96  
  
Elec. C., Secs. 336, 9030(a)
  - c. Last day for county to determine total number of  
signatures affixed to petition and to transmit total  
to the Secretary of State . . . . . Thursday, 05/30/96  
Elec. C., Sec. 9030(b)

(If the Proponent files the petition with the county on a date prior to 05/17/96, the county has eight working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 9030(b).

d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties . . . . . Saturday, 06/08/96\*  
Elec. C., Sec. 9030(c)

e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State . . . . . Monday, 07/22/96  
Elec. C., Sec. 9030(d)

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 06/08/96, the last day is no later than the thirtieth day after the county's receipt of notification.)  
Elec. C., Sec. 9030(d), (e).

f. If the signature count is more than 476,596 or less than 411,606 then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 411,606 and 476,596 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures . . . . . Thursday, 08/01/96\*  
Elec. C., Secs. 9030(f), (g); 9031(a)

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State . . . . . Monday, 09/16/96  
Elec. C., Sec. 9031(b), (c)

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 08/1/96, the last day is no later than the thirtieth working day after county's receipt of notification.)  
Elec. C., Sec. 9031(b), (c).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient . . . . . Friday, 09/20/96\*  
Elec. C., Sec. 9031(d), 9033

\* Date varies based on receipt of county certification.

LIMITATIONS ON PUBLIC DISPLAY  
OF MARINE MAMMALS.  
INITIATIVE STATUTE.  
December 20, 1995  
Page 3

4. The Proponent of the above-named measure is:

Richard Katz  
PODS - Committee to Protect Dolphins, Seals & Whales  
c/o: Darry Sragow, Sragow & Maravich  
221 N. Figueroa, 10th Floor  
Los Angeles, CA 90012  
(213) 680-5100

5. Important Points:

- (a) California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fund raising or requests for support. Any such misuse constitutes a crime under California law. Elections Code section 18650; Bilofsky v. Deukmejian (1981) 123 Cal.App. 3d 825, 177 Cal.Rptr. 621; 63 Ops. Cal.Atty.Gen. 37 (1980).
- (b) Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- (c) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (d) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (e) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (f) When filing the petition with the county elections official, please provide a blank petition for elections official use.

**NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 5, 1996 GENERAL ELECTION:** This initiative must be certified for the ballot 131 days before the election (June 27, 1996). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections officials by April 19, 1996. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 28, 1996.

Sincerely,



CATHY MITCHELL  
ELECTIONS SPECIALIST

DANIEL E. LUNGREN  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550  
(916) 445-9555

Facsimile: (916) 323-2137  
(916) 324-5490

December 20, 1995

**FILED**  
In the office of the Secretary of State  
of the State of California

DEC 20 1995

Bill Jones  
Secretary of State  
1500 - 11th Street  
Sacramento, CA 95814

By Bill Jones, Secretary of State  
Deputy Secretary of State

Re: Initiative Title and Summary  
Subject: LIMITATIONS ON PUBLIC DISPLAY OF MARINE MAMMALS.  
INITIATIVE STATUTE.  
File No: SA 95 RF 0033

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponent of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN  
Attorney General

Kathleen F. DaRosa  
KATHLEEN F. DaROSA  
Initiative Coordinator

KFD:ms  
Enclosures

Date: December 20, 1995  
File No: SA95RF0033

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**LIMITATIONS ON PUBLIC DISPLAY OF MARINE MAMMALS. INITIATIVE**

**STATUTE.** Prohibits public display of any live cetacean (e.g., whales or dolphins) or pinniped (e.g., seals and walruses). Excepts cetacean and pinniped in captivity in this or other state on effective date of measure and their offspring. Requires Department of Fish and Game to inventory all cetaceans and pinnipeds on display in state on effective date of statute. Provides for administration and enforcement by Department of Fish and Game. Requires all fines imposed or collected under the statute be deposited in the Fish and Game Preservation Fund. Provides for private civil enforcement. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Costs to the state will likely be less than \$100,000 annually, which may potentially be offset by fines and fees collected under the measure. Potential long term impacts in reduced revenues to state and local governments unknown, but could be millions of dollars annually.



**PODS - The Committee to Protect Dolphins, Seals & Whales**

o/o Sragow & Maravich  
221 N. Figueroa St., 10th Floor  
Los Angeles, CA 90012  
213/680-5100  
213/250-7855 (fax)

RECEIVED  
OCT 20 1995

October 19, 1995

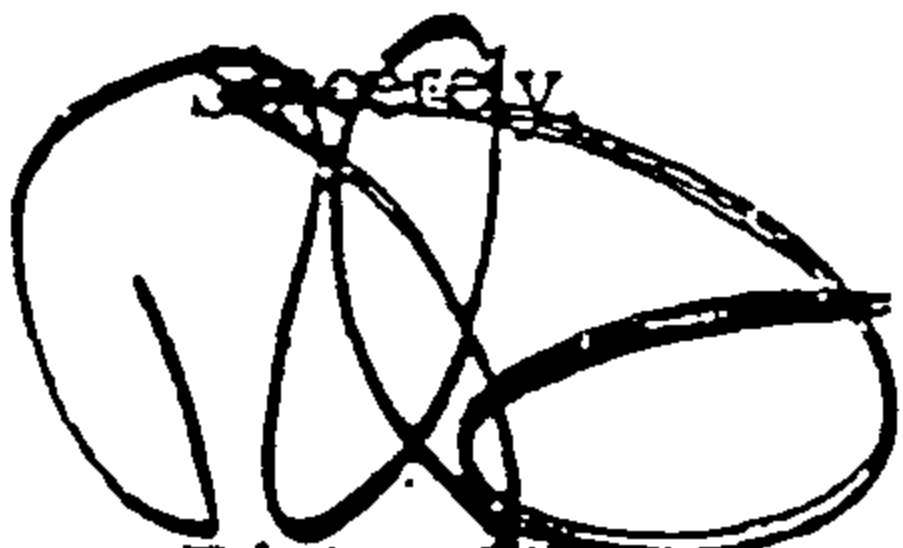
INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Ms. Kathleen DaRosa  
Initiative Coordinator  
Office of the Attorney General  
1515 K Street, 6th floor  
Sacramento, CA 95814

Dear Ms. DaRosa:

I am writing to request that the Attorney General prepare a title and summary of the chief purpose and provisions of the "Marine Mammal Protection Act," a copy of which is attached.

Enclosed please find a check for the \$200 fee, the statement required pursuant to Sections 3502 and 5358 of the Elections Code and the address where I, the proponent of the measure, am registered to vote.

  
Richard Katz

## Marine Mammal Protection Act

### INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

### TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

We, the undersigned, registered, qualified voters of California, residents of \_\_\_\_\_ County (or City and County), hereby propose amendments to the Fish and Game Code, relating to marine mammals, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding primary or general election or at any special statewide election held prior to that primary or general election or otherwise provided by law. The proposed statutory amendments read as follows:

The people of the State of California do enact as follows:

#### SEC. 1. Name of Act

This act shall be known and may be cited as the California Marine Mammal Protection Act.

#### SEC. 2. Findings: Marine Mammals Need Protection

The People of the State of California find and declare all of the following:

(a) California's coastal waters are biologically unique, and a number of endangered or threatened species live in the coastal environment and depend on coastal waters for survival.

(b) The proximity to and integrity of the ocean environment is an integral part of California's heritage.

Citizens of California enjoy the natural scenic beauty and diversity of the coastline, including viewing cetaceans and pinnipeds in their natural environment.

(c) The ocean environment, including viewing cetaceans and pinnipeds in their natural environment, is also an integral part of the experience of millions of tourists who visit California each year, fueling the state's tourism industry.

(d) Captive cetaceans and pinnipeds are confined to tanks that provide significantly less room to live than they are accustomed to in the wild.

(e) A significant number of cetaceans and pinnipeds held in captivity in California have prematurely died in captivity.

(f) The People of the State of California support the protection and preservation of cetaceans and pinnipeds.

(g) The People of the State of California state their desire that cetaceans and pinnipeds be considered national treasures and that removal from their natural environment be prohibited.

## **SEC. 2. Marine Mammal Protection**

Section 4501 is added to the Fish and Game Code, to read:

4501. (a) It is unlawful to display any live cetacean or pinniped that does not meet one of the following conditions:

(1) Is in captivity in this or any other state on the effective date of this Act.

(2) Is the offspring of cetaceans or pinnipeds that are in captivity in this or any other state on the effective date of

this Act.

(b) Using the National Marine Fisheries Service's Marine Mammal inventory maintained pursuant to paragraph (10) of subdivision (c) of Section 104 of the Marine Mammal Protection Act of 1972 (16 U.S.C.A. Section 1374 (c)(10)), the department shall compile a list of all cetaceans and pinnipeds on display in this state on the effective date of this Act. The department may also compile photographic records or a list of identifying marks to more fully identify each cetacean and pinniped on display in this state.

(c) When transferring or receiving a cetacean or pinniped for display purposes and upon the birth of a captive-bred cetacean or pinniped that is displayed, the facility shall send a copy of the National Marine Fisheries Service's transfer or birth notification form to the department in a timely manner. The department shall maintain a current inventory of all cetaceans and pinnipeds on display in the state.

(d) (1) The department shall conduct unannounced inspections of facilities' records and cetaceans and pinnipeds to monitor compliance with this Section.

(2) If the department determines that a facility is holding a cetacean or pinniped that is not on the department's inventory, the facility shall submit to the department documentation regarding its acquisition of the marine mammal.

(A) If the department determines that the marine mammal meets the conditions of paragraph (1) or (2) of

subdivision (a), and the facility failed to report either its transfer to the facility or its birth, the facility shall be assessed a civil penalty of five thousand dollars (\$5,000).

(B) If the department determines that the marine mammal is being held in violation of subdivision (a), the facility shall do both of the following:

(i) Apply for a federal release permit and prepare the marine mammal for reintroduction to the wild.

Before the marine mammal is released back into the wild, a veterinarian approved by the department shall determine whether the marine mammal is releasable. If the veterinarian determines that the marine mammal should not be released or if the National Marine Fisheries Service does not issue a release permit, the facility shall pay a civil penalty of twenty thousand dollars (\$20,000) for every year the marine mammal remains in captivity. All costs relating to the rehabilitation and release or transfer shall be paid by the facility.

(ii) Be assessed a civil penalty of ten thousand dollars (\$10,000) for the first day the marine mammal is known to be held in captivity, which penalty shall double each additional day until the marine mammal is released into the wild, the release permit is denied, or the veterinarian approved by the department determines that the marine mammal should not be released.

(e) Subdivision (a) does not apply to cetaceans and pinnipeds that are held by a facility authorized by the National

Marine Fisheries Service under a federal rehabilitation or species enhancement permit. Upon certification by a veterinarian approved by the department that a cetacean or pinniped held under a federal rehabilitation or species enhancement permit is not releasable, the department may approve the display of the marine mammal.

(f) Subdivision (a) does not apply to cetaceans or pinnipeds used in research conducted under a research permit issued by the National Marine Fisheries Service.

(g) All veterinarians that are approved by the department shall have expertise in cetacean or pinniped biology, physiology, and behavior and shall not have or have had any affiliation with, financial interest in, or financial ties to, any display facility within the previous five years.

(h) Subject to Section 388 of the Code of Civil Procedure, any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this Section or to determine the applicability of this Section to actions or threatened future action of a person or entity relating to the display of a cetacean or pinniped.

(i) In any action or proceeding brought pursuant to subdivision (h), the prevailing plaintiff may recover costs of litigation and reasonable attorney and expert witness fees, and other expenses. The remedy under this subdivision and subdivision (h) does not limit or restrict any other relief available under other law.

(j) Notwithstanding Section 1464 of the Penal Code, section 13003 or 13004 of this code, or any other provision of law, all fines, penalties, and forfeitures imposed or collected under this section shall be transmitted to the Treasurer and deposited in the Fish and Game Preservation Fund. Notwithstanding section 13340 of the Government Code, those funds are hereby continuously appropriated without regard to fiscal years to the department to pay the costs incurred by the department pursuant to this section.

#### SEC. 3. Severability

The provisions of this Act and each section and subsection thereof are severable. If any provision of this Act, section or subsection, or their application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

#### SEC. 4. Amendments

(a) Except as provided in subdivision (b) of this section, the provisions of this initiative shall not be amended except by statute-that-becomes-effective-only-when approved by the electorate.

(b) The provisions of this initiative may be amended only to further its purposes, by a statute passed in each House of the Legislature and signed by the Governor, by roll call vote entered in the journal, two-thirds of each house concurring. In any judicial action with respect to such amendment, the court shall exercise its independent judgment and shall determine

whether the amendment is supported by findings clearly and convincingly establishing that the amendment furthers the initiative's purposes. In so doing, the court shall give substantial weight to any evidence and argument supplied by the official proponents of this initiative regarding whether the amendment furthers the purpose of this initiative.

#### SEC. 5. Construction

This Act shall be liberally construed to achieve its purposes. Nothing in this Act shall exempt any person from the applicable provisions of any other law.



